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6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

10 UNITED STATES OF AMERICA,)	No. CR-12-00235 YGR
)	
11 Plaintiff,)	STIPULATED REQUEST TO CONTINUE
)	HEARING DATE TO OCTOBER 25, 2012
12 v.)	AND TO EXCLUDE TIME UNDER THE
)	SPEEDY TRIAL ACT AND ORDER
13)	
14 KHUSAR MOBLEY,)	
OTIS MOBLEY and)	Hearing Date: September 13, 2012
15 D'MARCE HUTCHERSON)	Time: 2:00 p.m.
)	
16 Defendants.)	
)	

17
18 The above-captioned matter is set on September 13, 2012 before this Court for a motion
19 and trial setting hearing. The parties jointly request that the Court continue the matter to October
20 25, 2012, and that the Court exclude time under the Speedy Trial Act, 18 U.S.C. § 3161, between
21 September 13, 2012 and October 25, 2012, so that the parties can complete plea negotiations and
22 so that the defense can continue to review and investigate this case, including supplemental
23 discovery that the government has produced to the defense and potential Guideline
24 enhancements.

25 On April 5, 2012, the Grand Jury charged defendants with: (1) Conspiracy to Commit
26 Robbery of Property of the United States and Assault on a Federal Officer, in violation of Title

1 18, United States Code, Section 371; (2) Assault on a Federal Officer, in violation of Title 18,
2 United States Code, Section 111(b); (3) Robbery of Property of the United States, in violation of
3 Title 18, United States Code, Section 2114; and (4) Brandishing a Firearm During, in Relation
4 to, and in Furtherance of a Crime of Violence, in violation of Title 18, United States Code,
5 Section 924(c)(1)(A). On the last and most serious charged offense, defendants face a minimum
6 sentence of 7 years consecutive to any other term of imprisonment, and a maximum sentence of
7 life.

8 The government has produced extensive discovery in this case, including approximately
9 one thousand pages of records and myriad audio recordings of witness interviews, post-incident
10 debriefings, 911 calls and recorded jail calls. The government continues to produce discovery as
11 it is received. For example, the government has recently produced audio recordings of
12 defendants' jail calls, and the government plans to produce a fingerprint analysis report to the
13 defense as soon as it is completed.

14 At the last appearance, the parties informed the Court that the government had recently
15 disclosed the names of approximately 30 potential witnesses to the incident in question. The
16 defense has begun the process but needs more time to identify, locate and interview these
17 potential witnesses. Additionally, the defense continues to investigate other areas of this case,
18 including an analysis of phone records and reconstruction of the scene. For these reasons, the
19 three defendants charged in this case request additional time to review the discovery and to
20 continue the defense investigation.

21 Additionally, the parties are diligently working on the settlement of this matter and
22 anticipate that the case may resolve by the requested appearance date on October 25, 2012. If
23 this case does not resolve by that date, the parties understand that the Court will set a date for
24 pretrial motions and a trial. To settle this case, however, the parties would like additional time to
25 complete legal research and investigation of potential sentencing enhancements under the
26 Guidelines.

1 Finally, government counsel is unavailable on Thursday, September 13, 2012, and
 2 counsel for Otis Mobley is unavailable for two weeks in late September through early October.
 3 As a result, the requested continuance would provide for continuity of counsel. For these
 4 additional reasons, the parties are in agreement that a continuance until October 25, 2012 is
 5 appropriate.

6 The parties stipulate and agree that the ends of justice served by this continuance
 7 outweigh the best interest of the public and the defendants in a speedy trial. The parties further
 8 agree that the failure to grant this continuance would unreasonably deny counsel for defendants
 9 the reasonable time necessary for effective preparation, taking into account the exercise of due
 10 diligence, and it would also deny counsel for the government and Otis Mobley continuity of
 11 counsel. Accordingly, the parties agree that the period of time from September 13, 2012 until
 12 October 25, 2012, should be excluded in accordance with the provisions of the Speedy Trial Act,
 13 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for effective preparation of defense counsel and for
 14 continuity of both government and defense counsel, taking into account the exercise of due
 15 diligence.

16 DATED: September 10, 2012

_____/S/
 JAMES C. MANN
 NATALIE LEE
 Assistant United States Attorneys

19 DATED: September 10, 2012

_____/S/
 RICHARD MAZER
 Counsel for Khusar Mobley

22 DATED: September 10, 2012

_____/S/
 SUZANNE MORRIS
 Counsel for Otis Mobley

24 DATED: September 10, 2012

_____/S/
 ANGELA M. HANSEN
 Assistant Federal Public Defender
 Counsel for D'Marce Hutcherson

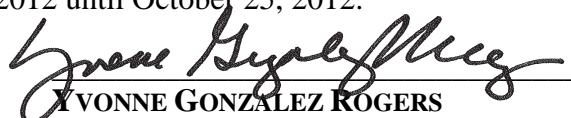
ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby
FINDS:

1. Given that the government has produced discovery to defendants that includes voluminous records and audio files that the defense needs to review, and given that the government continues to produce discovery as it is received;
2. Given that the government has disclosed the names of 30 potential witnesses, and given that the defense needs more time to identify, locate and interview these witnesses;
3. Given the defense need to complete its investigation of this case;
4. Given that the parties anticipate that this case has the potential to resolve by the requested appearance date but that the parties need more time to complete research and investigation of potential sentencing enhancements under the Guidelines;
5. Given that these above-listed tasks are necessary to the defense preparation of the case and that the failure to grant the requested continuance would unreasonably deny counsel for defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence;
6. Given that counsel for the government is unavailable on September 13, 2012 and counsel for Otis Mobley is unavailable for two weeks in late September through early October.
7. Given that the ends of justice served by this continuance outweigh the best interest of the public and the defendants in a speedy trial;

Based on these findings, IT IS HEREBY ORDERED that the motion and trial setting date of September 13, 2012 is vacated and reset for October 25, 2012, at 2:00 p.m. It is FURTHER ORDERED that time is excluded pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), from September 13, 2012 until October 25, 2012.

September 11, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE